

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

ANDREA VARGAS, JUAN VARGAS,  
personally, and as father of JV, a minor,  
and ADAM VARGAS, DANNY VARGAS,  
CODY OLACHEA, and KAYSHA SAIZ,

Plaintiffs,

vs.

CV 11-00082 JCH/CG

OFFICER MIKE BRISENO, OFFICER DAVID GRIEGO, SERGEANT ROBERT PEREZ, OFFICER ERIC HAANES, OFFICER JOHN GARCIA, and OFFICER DAVID ROCK, police officers employed by the City of Farmington, New Mexico, Police Department, all named individually as to the events of July 7, 2008, and individually and in their official capacities as to the events of September 3, 2009, and, LIEUTENANT NEIL HAWS, SERGEANT MATT WILCOX, and OFFICER CARLOS LOOMIS, sheriff's officers employed by the San Juan County Sheriff's Office, all named individually as to the events of July 7, 2008, and individually and in their official capacities as to the events of September 3, 2009, and OFFICER ROCKY VELARDE, a police officer employed by the New Mexico State Police individually as to the events of July 7, 2008, and individually and in his official capacity as to the events of September 3, 2009, and OTHER UNKNOWN POLICE OFFICERS, employees of law enforcement entities of the State of New Mexico or its political subdivisions, individually as to the events of July 7, 2008, and individually and in their official capacities as to the events of September 3, 2009,

Defendants.

**ORDER DENYING MOTION TO WITHDRAW**

**THIS MATTER** comes before the Court on attorney Santiago Juarez's *Motion to Withdraw as Counsel for the Plaintiff* [Cody Olachea], (Doc. 34), and *Motion to Withdraw*

as Counsel for the Plaintiff Kaysha Saiz, (Doc. 35).<sup>1</sup> Mr. Juarez states that neither Plaintiff has been in contact with his office for some time, that mailings to their respective addresses have been returned with no forwarding address, and that other Plaintiffs in the case have been unable to find or contact Mr. Olachea or Ms. Saiz. (Doc. 34 at 2; Doc. 35 at 2). He states that neither Plaintiff has participated in the discovery process and that “these and similar difficulties have made counsel’s continued representations of [Mr. Olachea and Ms. Saiz] untenable.” (Doc. 34 at 2; Doc. 35 at 2). The Court, having considered the motions, the relevant law, and otherwise being fully advised in the premises, **FINDS** the motions not to be well-taken and will be **DENIED**.

The motions fail to state whether concurrence was sought or received from opposing counsel, which is required pursuant to D.N.M.L.R. 7.1(a). In addition, the motions fail to comply with local rule 83.8(b), which provides that a contested motion to withdraw must be served on all parties, including Mr. Olachea and Ms. Saiz, and that the motion must state that the parties have fourteen days to object to the motion. D.N.M.L.R. 83.8(b).<sup>2</sup> Should Mr. Juarez wish to pursue the motions to withdraw, he is instructed to serve the motions on all parties, including Mr. Olachea and Ms. Saiz at their last known addresses, in compliance with D.N.M.L.R. 83.8(b). Mr. Juarez is further instructed to provide proof, in affidavit form, of all reasonable efforts he has made to contact Mr. Olachea and Ms. Saiz in this case. See, e.g., *Salinas v. Sun Oil Co.*, 819 F.3d 105, 106 (5th Cir. 1987) (noting

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<sup>1</sup> Doc. 34 is titled “*Motion to Withdraw as Counsel for the Plaintiff Kaysha Saiz*” but the body of the motion clearly states that Mr. Juarez is seeking to withdraw as counsel for Plaintiff Cody Olachea. (See Doc. 34 at 1-2).

<sup>2</sup> Because Mr. Juarez states that he has been unable to contact either Plaintiff, the Court will assume that Mr. Olachea and Ms. Saiz oppose the motions to withdraw.

that, prior to permitting an attorney to withdraw after being unable to locate his client, the district court directed counsel to make all reasonable efforts to locate his client and inform him of the consequences of the withdrawal).

**IT IS THEREFORE ORDERED** that Mr. Juarez's *Motion to Withdraw as Counsel for the Plaintiff* [Cody Olachea], (Doc. 34), and *Motion to Withdraw as Counsel for the Plaintiff Kaysha Saiz*, (Doc. 35), be **DENIED**.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal line extending to the right.

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THE HONORABLE CARMEN E. GARZA  
UNITED STATES MAGISTRATE JUDGE